IN THE HIGH COURT OF JUDICATURE OF BOMBAY

CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER ST.NO.18331 OF 2006
WITH
CIVIL APPLICATION ST.NO.18332 OF 2006

Mrs.Madhuben B. Chaudhari. ..Appellant.

V/s.

Paresh Ganjawala & Ors. ..Respondents.

Mr.Rajesh Kachare for appellant.

Mr.B.M.Vakil for respondent Nos. 4 and 11.

CORAM: A.M.KHANWILKAR,J
DATE : AUGUST 7, 2006.

P.C. :

1. Not on board. Upon production taken on board.

2. Heard counsel for the parties. Admit.

3. This appeal is confined against the respondent Nos. 4 and 11. Mr.Vakil appears for these respondents and waives notice. As short question is involved, appeal is taken up for final disposal forthwith by consent.

4. The order which is impugned in this appeal from order is passed by the trial Court on 1st August, 2006 on Notice of Motion No.2851 of 2006 in

Short Cause Suit No.3168 of 2006. The grievance of the appellant is that no reason whatsoever has been recorded by the trial Court for granting relief in terms of prayer clause (b). Taking advantage of that relief the respondent Nos. 4 and 11 will force their entry in the room occupied by the appellant. That would amount to mandatory order passed by the trial Court, that too without recording reasons. The fact that no reason is recorded by the trial Court for granting relief in terms of prayer clause (b) is accepted by the counsel appearing for the respondent Nos. 4 and 11. Without going into any other controversy, in my opinion, appropriate course is to set aside the impugned order and to relegate the parties before the trial Court to decide the Notice of Motion finally or to consider grant of ad-interim order during the pendency of the said Notice of Motion, as may be advised. In the event the trial court decides to consider prayer for ad-interim relief, it shall record reasons which persuaded it for grant of such relief. Hence this appeal succeeds on the above terms. No order as to costs.

5. Civil application disposed of accordingly.